

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:18-00034

PHYLLIS DOTY

MEMORANDUM OPINION AND ORDER

Before the court is Phyllis Doty's second motion to continue. ECF No. 54. The government's July 10, 2018 Fourth Supplemental Discovery Response included a report written by Melinda Cash, an expert in forensic computer analysis. As a result, defense counsel requested access to the "computer or computers" Ms. Cash used while drafting the report. The government provided defense counsel with the relevant documents on July 19, 2018, and defense counsel estimates it will take approximately 15 days for its third-party document assessor to review these documents. See id. The government does not object to the proposed continuance. ECF No. 55.

The court believes that failure to grant the requested continuance would likely prejudice defense counsel's ability to effectively represent the defendant. Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendants and the public in a speedy trial under 18 U.S.C. § 3161(h)(7)(A). In deciding to grant

defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." 18 U.S.C. § 3161(h)(7)(B)(iv).

Deeming it proper to do so, the court **GRANTS** defendant's motion to continue.

Accordingly, the court **ORDERS** as follows:

- I. Trial of this action is continued until **Tuesday, August 28, 2018, at 9:30 a.m.**, in Charleston;
- II. Pretrial motions are to be filed on or before **Monday, August 20, 2018**;
- III. A pretrial motions hearing is scheduled for **Monday, August 27, 2018 at 3:00 p.m.**, in Charleston;
- IV. Proposed voir dire questions, proposed jury instructions, and prospective witness lists are to be filed on or before **Tuesday, August 21, 2018**; and
- V. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of defendant's motions until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, the United States Marshal for the Southern District of West Virginia, and the Probation Office of this court.

IT IS SO ORDERED this 23rd day of July, 2018.

ENTER:



David A. Faber

Senior United States District Judge